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Attorneys for Respondent

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF CALIFORNIA

EDWARD MARTIN SAENZ, JR.,

Petitioner,

v.

**SECRETARY OF THE DEPT. OF CORR.
AND REHAB., et al.,**

Respondents.

08-0566 WQH (JMA)

**NOTICE OF MOTION AND
MOTION TO DISMISS PETITION
FOR WRIT OF HABEAS CORPUS**

(Oral Argument Not Requested)

The Honorable Jan M. Adler
United States Magistrate Judge

TO PETITIONER **EDWARD MARTIN SAENZ, Jr. PRO SE:** PLEASE TAKE
NOTICE that Respondent hereby moves this Court for an order dismissing the Petition for Writ of
Habeas Corpus because it is barred by the statute of limitations. This motion is based on this Notice
of Motion and Motion, the accompanying Memorandum of Points and Authorities, and any further
pleadings, records, or other documents filed or lodged in this action.

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1 WHEREFORE, Respondent respectfully requests the Petition be dismissed with prejudice.

2 Dated: September 10, 2008

3 Respectfully submitted,

4 EDMUND G. BROWN JR.
Attorney General of the State of California

5 DANE R. GILLETTE
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CERTIFICATE OF SERVICE BY U.S. MAIL

Case Name: **Saenz v. Dept. of Corrections**

No.: **08-0566 WQH (JMA)**

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar, at which member's direction this service is made. I am 18 years of age or older and not a party to this matter. I am familiar with the business practice at the Office of the Attorney General for collection and processing of correspondence for mailing with the United States Postal Service. In accordance with that practice, correspondence placed in the internal mail collection system at the Office of the Attorney General is deposited with the United States Postal Service that same day in the ordinary course of business.

On September 10, 2008, I served the following documents:

NOTICE OF MOTION AND MOTION TO DISMISS; MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF MOTION TO DISMISS; and NOTICE OF LODGMENT IN 28 U.S.C. § 2254 HABEAS CORPUS CASE - TO BE SENT TO CLERK'S OFFICE

by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the internal mail collection system at the Office of the Attorney General at 110 West A Street, Suite 1100, P.O. Box 85266, San Diego, CA 92186-5266, addressed as follows:

Edward Saenz, Jr.
461 5th Avenue, # 20
San Diego, CA 92101

Pro Se

Electronic Mail Notice List

I have caused the above-mentioned document(s) to be electronically served on the following person(s), who are currently on the list to receive e-mail notices for this case: None

Manual Notice List

The following are those who are **not** on the list to receive e-mail notices for this case (who therefore require manual noticing): **Edward Saenz, Jr.**, at the above-named address.

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on September 10, 2008, at San Diego, California.

Bonnie Peak

Declarant


Signature